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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Application of Southern California Edison
Company (U338E) for Approval of the Results
of Its 2015 Preferred Resources Pilot Request
for Offers.

Application 15-12-013
(Filed December 15, 2015)

**REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
ON THE PROPOSED DECISION APPROVING THE APPLICATION OF SOUTHERN
CALIFORNIA EDISON COMPANY FOR TWO SOLAR PHOTOVOLTAIC PROJECTS**

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Dated: **August 22, 2016**

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Under Rule 14.3(d) of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure, Southern California Edison Company (SCE) respectfully submits its Reply Comments on the Proposed Decision Approving SCE's Application (PD).

I.

INTRODUCTION

The Office of Ratepayer Advocate's (ORA's) Opening Comments argue that the PD commits legal error. ORA argues that because SCE's application does not seek overarching authority to conduct the Preferred Resource Pilot (PRP) *as a whole*, the Commission may not consider any aspects of the PRP. ORA is missing the forest for the trees by narrowly focusing on the title "PRP" instead of the evidentiary record that is before the Commission. The record shows that SCE has met its burden to prove that the procurement for which it seeks approval is reasonable because it will help SCE understand whether completely clean preferred resources will allow SCE to avoid procuring fossil fuel resources to meet growing demand. Obtaining that understanding, derived through a fairly conducted solicitation process, is unquestionably in the best interest of customers, the State's ambitious environmental and energy policies, and other important Commission-approved endeavors that focus on the grid of the future, including the Electric Program Investment Charge (EPIC) Investment Plan's Integrated Grid Project (IGP) and Distributed Resources Plan (DRP).

It is illogical for ORA to contend that SCE's explanation for procuring these resources is outside the scope of the proceeding because the Commission cannot determine whether SCE's procurement is "reasonable" without knowing SCE's reason for engaging in the procurement. Moreover, SCE's considerable evidence regarding why the procurement is reasonable is part of the record. ORA did not successfully move to strike that evidence from the record, oppose SCE's motion to move the evidence into the record, or discredit its veracity at hearings. The Commission therefore did not commit legal error when it conducted an independent review of the evidentiary record before it and proposed to find that SCE satisfied its burden to prove that the procurement is reasonable. SCE met that burden by clear and convincing evidence.

II.

THE PROPOSED DECISION DOES NOT COMMIT LEGAL ERROR

ORA misconstrues the explicit scope of this proceeding as established by (1) SCE's initial Prepared Testimony, (2) comments made by the Commission and SCE at the prehearing conference, (3) the Commission's Scoping Memo and Ruling, and (4) SCE's Supplemental Testimony. Because ORA did not successfully move to strike any of SCE's testimony, oppose SCE moving that evidence into the record, or demonstrate that it lacked credibility at hearings, all of the evidence SCE adduced regarding why the procurement is reasonable remains part of the evidentiary record that the Commission is free to consider. That evidentiary record is more than sufficient to support the PD's proposal to find the procurement reasonable and recommend that the Commission grant SCE's Application. In fact, SCE has met its burden by both a preponderance of the evidence, as well as clear and convincing evidence.

A. SCE Met its Burden of Proof by Clear and Convincing Evidence

As noted in SCE's initial Prepared Testimony, the contracts are reasonable because they will benefit customers and further the state's important and ambitious energy and environmental policy goals. The contracts will aid SCE's investigation in the Johanna and Santiago substation system area in Orange County to determine if and how totally clean preferred resources are sufficient to meet local needs at the distribution level and manage or offset projected electricity demand growth between 2013 and 2022. SCE's Testimony elaborated that these contracts will

help SCE validate the assumptions of preferred resource that state agencies, like the California Energy Commission, use in their planning assumptions.

As SCE testified, this an important activity for the short term because if preferred resources validate those assumptions and can meet local needs at the distribution level, SCE may not have to rely on new, gas-fired or other fossil fuel generation to meet projected load growth. Longer term, proving the ability to acquire at the local level and knowing the true performance capabilities of clean preferred resources is critical for the grid of the future, to realize the state's ambitious environmental policy goals, and to support other important Commission-approved endeavors such as the EPIC IGP and the DRP. SCE through its testimony also met its burden to demonstrate that all aspects of the solicitation, negotiation, and the resulting contracts were reasonable and will benefit customers.

Because ORA did not successfully move to strike the testimony, oppose SCE's motion to move to evidence into the record, or discredit the credibility of the evidence at hearings, SCE's complete testimony remains part of the record. The Commission was therefore able to conduct its own independent evaluation of this evidence and conclude that SCE met its burden. It is also not true that the PD legally errs by improperly shifting the burden of proof to ORA when it notes the bare fact that ORA "did not dispute the fairness of the process by which the PRP DG RFO was conducted."¹ As a legal and factual matter, the bare recognition that ORA did not dispute the fairness of the RFO process is not the equivalent of shifting the burden of proof to an intervenor. It is merely a statement of fact. Another fact is that SCE produced clear and convincing evidence that it conducted the RFO fairly.

B. SCE's Evidence Regarding the PRP is within the Scope of the Proceeding

ORA illogically contends that SCE's explanation for procuring these resources is outside the scope of the proceeding simply because of a shorthand title SCE uses internally. The Commission cannot determine whether SCE's procurement is "reasonable" without knowing SCE's reason for engaging in the procurement. SCE's initial prepared testimony, which alone was sufficient to meet its burden of proof, discussed SCE's reasons in detail.

¹ ORA Reply at p. 9.

ORA protested SCE's Application, suggesting that SCE's application was infirm because it did not seek authority to conduct the PRP. ORA did not explain, as a legal or factual matter, why the Commission lacks the discretion and authority to approve these contracts without preauthorizing SCE to conduct the PRP in whole or part. By contrast, SCE's responded, with citation to supporting authority, that it is an obvious proposition that the Commission has the authority to approve procurement that will benefit customers, and noted that the procurement was also authorized under the RPS.

At the prehearing conference, ORA requested additional clarity and for an assurance that the PD would "not reach a determination on the reasonableness of the program as a whole."² Administrative Law Judge Fitch's response made it clear that while SCE's internal endeavor as a whole was not at issue, certain aspects were relevant, stating: "We would not reach a conclusion about the [PRP] overall. It's just about the two contracts under this particular [PRP DG] RFO, which is itself only a portion of the PRP as I understand it."³

Thereafter, the Commission issued a Scoping Memo and Ruling that appropriately limited the scope of the proceeding to the three issues relating to the approval of the PPAs, but not the PRP as a whole.⁴ To help the Commission answer the overarching question regarding the reasonableness of the procurement and the three key issues, the Scoping Memo and Ruling asked SCE to submit Supplemental Testimony on nine issues, five of which involve the relationship of SCE's internal endeavor to the RFO and resulting contracts as follows:

1. Describe the relationship of the DG RFO to the overall PRP effort and design.
Response to this question may include any progress reports or other documents associated with the DG RFO or the PRP generally.
2. Describe the relevant PRP metrics used to evaluate the proposed PPAs and whether the projects meet the local area needs.
3. Explain whether and how SCE intends to bring in future applications that relate to the PRP, including whether or not SCE intends to seek authorization for the overall PRP program from the Commission in the future.

² PHC Transcript at p. 19 (emphasis added.)

³ *Id.* (emphasis added.)

⁴ Scoping Memo at 2; *see also* Prehearing Conference Transcript at 3:11-5:13 (discussing the limited scope of the proceeding).

4. Describe why the DG RFO was conducted separately from the Renewable Auction Mechanism (RAM) or Solar Photovoltaic Program (SPVP) solicitations. In particular, describe the benefits from SCE's perspective of having this separate RFO.⁵
5. Describe any lessons learned from this DG RFO in the PRP and where and how those lessons will be acted upon for future RFOs or other procurement efforts."⁶

SCE's Supplemental Testimony on these five issues was culled from and reiterated its initial Prepared Testimony, but in a reorganized format. The request for supplemental testimony on these five issues was clearly designed to help the Commission conduct an independent investigation of the facts to discern if SCE satisfied its burden of proof on the three issues identified as in scope and the overarching issue (which is always in scope) of whether SCE's application for approval of these contracts was reasonable. All of SCE's testimony was responsive to the scope of the proceeding. Accordingly, there is no merit to ORA's assertion that the Commission violated Rule 7.3 of its Rules of Practice and Procedure or the California Court of Appeal decision in *Edison Company v. Public Utilities Commission* when it considered the full evidentiary record before it regarding SCE's reasons for the procurement.⁷

The evidence SCE produced on all of the in scope issues met the clear and convincing standard. The Commission should approve SCE's application because the reason for the procurement, the price of the procurement, the manner in which the procurement was conducted, the price of the procurement, and the satisfaction of a RPS Category 1 need are reasonable.

III.

CONCLUSION

For the foregoing reasons, the Commission should approve SCE's Application without material modification.

⁵ SCE interpreted this question to be asking why SCE conducted a stand-alone solicitation, as opposed to procuring through existing procurement mechanisms.

⁶ Scoping Memo and Ruling at pp. 2-3.

⁷ *Id.* at p. 3.

Respectfully submitted,

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